


CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

General Counsel


17 June 1983

on
NOTE FOR: DDCI

John:

Here is a list of questions which we have just now received from the SSCI. We are in the process of preparing answers to each and will have them in your book. The questions give you an idea of the focus of the Committee's concerns.


DGC

Attachment

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QUESTIONS AND REQUESTS FOR INFORMATION FOR CIA RE FOIA

1. If S.1324 is enacted, what files would the DCI designate? Please provide a list of files which would and would not be designated in each of the Directorate of Operations, the Directorate of Science and Technology and the Office of Security?

2. What criteria would the DCI use in making designations? To what extent would the criteria vary among the three components mentioned? Does CIA consider it desirable to include the criteria in the bill or legislative history?

3. What kinds of materials do each of the three components now release under FOIA which would be designated and therefore exempt from release (as well as search and review) under the bill? Please specify the nature of the information, as well as the volume. Also, please note the extent to which information which would no longer be released is found and not found in the same or substantially similar form in other CIA components (e.g., an intelligence report from the DO which is disseminated to the Directorate of Intelligence -- which would have no designated files -- would contain the essence of any previously releasable information found in a DO operations cable which would be designated.)

4. Would CIA be willing to amend the bill to include a limit on the age (say 50 years) of any document which may be included in a "designated file?" Absent such a limit, information of historical value would not be accessible under

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the Freedom of Information Act. In this connection, to what extent do the files the DCI would designate contain records of historical or other value warranting preservation as determined by the National Archives or the DCI? Please provide a list of the Agency's records determined to be of historical or other value by the Archives, with notations of which would be found in designated files. In addition, please furnish the current lists of records not requiring preservation and disposal schedules, with notations of which records would be found in designated files.

5. If designated files contain information concerning possible illegal intelligence activities (e.g., violations of E.O. 12333) would they be exempt from search and review under the bill? Would the CIA support an amendment which would make it clear that designated files will be subject to search and review if they concern any intelligence activity which the DCI, the Inspector General or General Counsel of the Agency has reason to believe may be unlawful or contrary to Executive Order or Presidential Directive?

6. The Executive Order on Intelligence Activities requires senior officials of the Intelligence Community to report to the Intelligence Oversight Board, and keep the DCI appropriately informed, concerning any intelligence activities of their organizations that they have reason to believe may be unlawful or contrary to Executive Order or Presidential Directive (Sec. 1.7(d)). How many reports have been made since

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the issuance of the E.O. concerning CIA activities? Please describe them. Has any information concerning such reported activities been found exclusively in a file that would be "designated" under this bill? How many reports to the IOB under the corresponding provisions of the Ford and Carter Executive Orders and how many of them would not be reportable under the current E.O.?

7. Is it possible that information found in a designated file could be communicated orally or in writing outside the DO (or other component where a designated file is located) without that very same information being included in a non-designated file (e.g., a memo hand carried by the DDO to the DCI and then returned to the DO's designated file?) What are the current policies and practices concerning the recorda-
and custody
tion/of such communications? How will the system work if the bill is enacted to assure that all information communicated outside the three components will be subject to search and review?

8. Is it possible that a non-designated file could contain very limited information which is releasable under FOIA and concerns a topic of great public interest and that significant related additional information is located only in a designated file which information would be releasable under FOIA but for the search and review exemption (e.g., due

to sensitivity only a limited summary was disseminated, but time has passed and the details in the lengthier document are no longer sensitive but, nevertheless, remain in a designated file)? How can such an anomolous result be avoided? Should the bill or legislative history reflect that the DCI would be expected to remove the designation of any file likely to contain releasable information (not otherwise substantially available in non-designated files), if there is a public interest in the material?

9. Should Section 3(c) of the bill be amended to permit U.S. organizations such as universities, newspapers, and American controlled corporations and other business entities to require search and review of designated files containing information about them? The bill limits this right to individuals who are citizens or permanent resident aliens.

10. Would files concerned with "foreign intelligence... operations" (Sec. 3(a) of the bill) include those pertaining to "special activities?" Is CIA authorized by the National Security Act to conduct "special activities?" Please provide the legal opinions of former General Counsel Lawrence Houston and any more recent interpretations.

11. Please describe the current workload, backlog and manpower levels of each of the DO, DST and Office of Security allocated to information and privacy processing. Also, please furnish estimates of the volume and nature of the material each component annually releases to the public which would be exempt from search and review under the bill.

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and, the extent to which the bill would affect these levels. How much of an improvement in responding to information and privacy requests can the public expect if this bill is passed?

12. Please furnish prints of the vugraphs concerning request processing statistics that are shown to the staff on June 14.